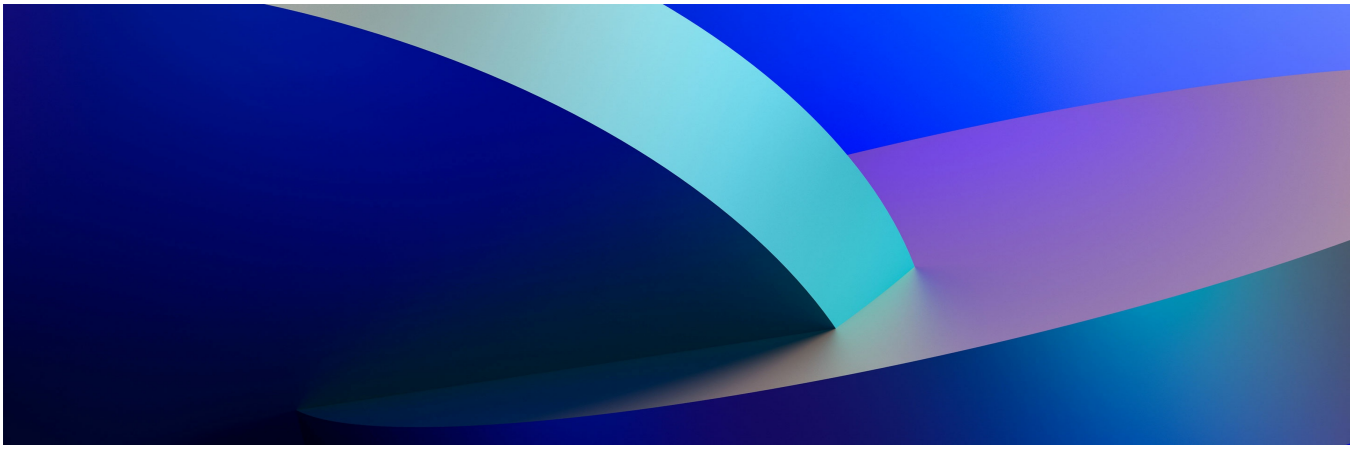


Gambling laws in Poland

1. Regulatory framework

1.1 Is there a Gambling Act (or equivalent) in place?

- **Yes.**

The Gambling Act (*ustawa o grach hazardowych*) dated 19 November 2009, as amended.

1.2 Is online gambling a regulated activity?

Yes.

Except for sports betting and promotional lotteries, online gambling is a state monopoly.

1.3 Are there any regulators?

Yes.

Generally, the main regulator is the Finance Minister.

Website: www.gov.pl/web/finanse

1.4 Is there a regulatory regime related to advertising gambling?

Yes.

Gambling advertising, promotion and informing about sponsorship is subject to a regulatory regime; however, it is different for different games).

2. Structuring and corporate governance

2.1 Is a local presence necessary to run gambling activity?

Yes.

Activities in the field of cylinder games, card games, dice games and slot machine games, cash bingo games, mutual betting and audio-text lotteries may be carried out once a joint stock company or a limited liability company with its registered office in Poland obtains a licence.

Subject to certain conditions, an exception is when these activities are carried out by joint-stock companies, limited liability companies or companies operating on the terms applicable to these companies, with their registered office in another Member State of the European Union or a Member State of the European Free Trade Association (EFTA), and parties to the agreement on the European Economic Area.

2.2 If yes, are there any mandatory legal forms of business for gambling companies?

Yes.

As a rule, only a joint stock company or a limited liability company with its registered office in Poland can carry out such gambling business, with the exceptions mentioned in 2.1 and some other specific forms of gambling.

2.3 Can a local subsidiary be formed by foreign shareholders?

Yes.

Shares in such companies can be acquired by: (i) a legal entity or company without a legal personality, whose seat is in a Member State of the European Union or a Member State of the European Free Trade Association (EFTA), and parties to the agreement on the European Economic Area; (ii) an individual person who is a citizen of a European Union Member State or a Member State of the European Free Trade Association (EFTA), and parties to the agreement on the European Economic Area.

This restriction does not apply to the foreign companies listed in 2.1.

2.4 Are there foreign investment restrictions?

Yes.

Foreign investment restrictions include, e.g. regulations regarding the acquisition or taking up of stocks or shares in companies, as described above.

2.5 Are there any minimum requirements for a gambling company's statutory capital?

Yes.

As a rule, the minimum amount of a joint stock company's or limited liability company's capital operating in the field of: (i) games conducted in casinos, is PLN 4,000,000; (ii) games organised in a cash bingo hall or mutual bets, is PLN 2,000,000.

For foreign companies, if the amount of share capital is expressed in a foreign currency, its value after conversion into PLN must not be lower than the amounts mentioned above (the conversion into PLN is made according to the average exchange rate announced by the National Bank of Poland on the last day of the month preceding the application).

2.6 Can management include foreign individuals?

Yes.

As a general rule, members of the company's management board, supervisory board and audit committee must have either Polish citizenship or the citizenship of a European Union member state, a member state of the European Free Trade Association (EFTA), or parties to the agreement on the European Economic Area or the Organisation for Economic Cooperation and Development. This requirement does not apply to the foreign companies mentioned in 2.1.

2.7 Are there any mandatory reporting requirements (beyond tax) regarding a gambling company's corporate governance matters?

Yes.

Obligations include providing information on their functioning, at the request of authorities; submitting economic and financial data statements regarding their activity; and providing information on certain changes in the structure of their share capital, composition of the management board, supervisory board or audit committee, and termination of a contract with a representative of the company (this applies to non-Polish companies).

3. Licensing

3.1 Do local regulations set out a clear licensing framework for gambling (including the licensing process, criteria, submission requirements, licensing conditions and ongoing compliance requirements)?

Yes.

Essentially, the Gambling Act sets out a regulatory licensing framework for gambling.

3.2 Is gambling licensing specific to:

3.2.1 Betting?

Yes.

The Gambling Act provides the details for obtaining such licence (including in sports).

3.2.2 Sports?

Yes.

As above. Please note that an organiser of mutual betting needs to have an agreement concluded with the respective national sport's organisation allowing the use of the results of sport's competitions.

3.2.3 Skill games?

No.

There are no specific licence regulations concerning skill games as long as this concerns games where no element of chance is involved and where the results of the game depend solely on the participant's skill.

3.2.4 Card Games?

Yes.

A specific licensing regime governs card games.

3.2.5 Casinos?

Yes.

Running a casino requires a special form of licence, namely a concession.

3.2.6 Lotteries?

Yes.

The Polish Gambling Act provides for different types of "lotteries", e.g. raffle lotteries, promotional and

audio-text lotteries. As a rule, conducting such activity requires that a permit be obtained or that the respective notifications are made.

3.2.7 Arcades?

No.

Insofar as an arcade does not involve games where an element of chance is involved (i.e. skill-based arcade games), there should be no specific licence-related regulations. However, the conduct of activity involving the organisation of slot machine games (that have an element of chance) is specifically regulated and is subject to specific concession rules.

3.3 Is the creation of video games for gambling by a software developer subject to gambling licensing?

No.

As a general rule, such activity might not fall under the licencing regime of the Gambling Act. However, specific activity should be evaluated on a case-by-case basis as producers of gambling devices fall under certain regulatory regime of the Gambling Act.

3.4 What is the term of a licence/permit?

For casinos, six years.

For a permit to operate a cash bingo hall and a permit to arrange mutual betting, six years.

For permits to organise a raffle lottery, raffle bingo, promotional lottery and audio-text lottery, for the duration of the lottery or game, up to two years.

3.5 How long does it take to obtain a licence/permit?

For a licence or permit, statutorily up to six months.

For a promotion lottery, audio-text lottery and raffle lottery, statutorily up to two months.

In practice the above terms may be longer.

3.6 Is there any limit on the number of licences that can be granted?

Yes, there are certain limitations in relation to casinos, raffle bingo salons and slot machines.

One casino concession is granted for one casino, while the Gambling Act limits the number of casinos that can operate in Poland - one per **250,000** inhabitants in a voivodeship; with a further restriction of no more than one casino per every full **650,000** inhabitants.

Further quantitative limitations apply to other forms of gambling activities. In particular:

- Slot machines may be operated at a ratio of one slot machine per each commenced **1,000** inhabitants of a county (PL: *powiat)*.
- The number of raffle bingo salons is also population-based, as follows:
  - in localities with up to **100,000 inhabitants** – **one salon**;
  - for each additional **100,000 inhabitants** – **one additional salon**;
  - however, the total number of raffle bingo salons within a voivodeship (PL: *województwo*) may not exceed **one salon per each full 300,000 inhabitants** .

3.7 Are there any specific licensing requirements?

Yes.

There are specific and detailed licence requirements depending on the type of game.

4. Compliance

4.1 Are there any mandatory AML rules generally and for gambling industry specifically?

Yes.

The Polish Act on Counteracting Money Laundering and Terrorist Financing (the "**Polish AML Act**") implements the requirements of the EU AML directives. Licensed organisers of gambling games (including betting) are obliged entities under the Polish AML Act and as such they must comply with all measures under it. There are certain special rules which apply only to gambling games organisers, e.g. additional circumstances triggering the obligation to apply financial security measures (placing bets or collecting winnings exceeding EUR 2,000).

4.2 Are there any specific reporting obligations for gambling companies in terms of AML and data protection?

Yes.

General reporting obligations for AML. For data protection, please see 5.1.

5. Data Protection

5.1 Are there any specific Data Protection regulations in place?

In Poland, in addition to the GDPR, the Act on Personal Data Protection of 10 May 2018 applies.

The Gambling Act of 19 November 2009 regulates certain details of data processing, e.g. the scope of personal data of guests registered at gaming centres, which should be recorded by the entity organising the game or of the winners, whose data is kept in the record of prizes paid.

5.2 If yes, do they apply extra-territorially?

Yes.

As with the GDPR.

5.3 Is there a Data Protection Regulator?

Yes.

The President of the Personal Data Protection Office (PUODO). For details, please see: https://uodo.gov.pl/en/478

6. Currency control and other cross border issues

6.1 Are there any currency/exchange/finance controls at the present time to transfer cash out of and into the country?

Yes.

Pursuant to the Act on Foreign Exchange Law of 27 July 2002 (*Prawo dewizowe*), if the amount of the transfer exceeds the equivalent of EUR 15,000, the transfer should be made via a bank or payment institution.

It is worth mentioning that pursuant to the Polish AML Act, Obligated Institutions must provide the General Inspector of Financial Information with information on any cash deposit or withdrawal

exceeding EUR 15,000 or any transfer of funds exceeding EUR 15,000 (with exceptions).

Additionally, in accordance with Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls of cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ EU. L. 2018, No. 284, p. 6, as amended), a person entering or leaving the EU and carrying cash of EUR 10,000 or more must declare that cash to the competent authorities of the respective Member State. The obligation to declare cash will not be deemed to have been fulfilled if the information provided is false or incomplete, or if the cash has not been made available for inspection. Failure to submit a declaration may result in the funds being retained by means of an administrative decision issued by the competent authority.

Lastly, residents conducting foreign exchange transactions, as defined in the Act on Foreign Exchange Law of 27 July 2002, are subjected to the “reporting requirement”. The amounts, procedure, scope and deadlines for fulfilling this obligation are specified in the Regulation of the Minister of Development and Finance of 9 August 2017 on the provision to the National Bank of Poland of the data necessary for the compilation of the balance of payments and the international investment position.

6.2 Where currency/exchange/finance or capital controls do exist:

Yes.

The controls generally concern crossing an EU border with cash of the specified amount.

Additionally, payment transactions arising from gambling games are subject to anti-money laundering and terrorism financing regulations.

6.2.1 What is the approval regime and process in place?

Yes.

The notification regime is provided by the Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls of cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ EU L 284, 2018, p. 6, as amended). A written declaration of funds entering or leaving the EU amounting in EUR 10,000 or above is needed.

6.2.2 Must permission be sought for each transaction, or can pre-approvals take place (subject to defined limitation, or otherwise)?

Yes.

In principle, the notification system applies to EU border crossings.

In the EU, capital flows (such as bank transfers, investments, etc.) are not restricted. The transfer of funds is free to and from Poland, as long as they comply with anti-money laundering (AML) regulations, including verifying the source of funds and identity.

6.2.3 Other comments

Yes.

Payment transactions arising from gambling games in Poland over the internet should be processed only via authorised payment institutions.

AML rules apply.

7. Marketing and advertising

7.1 Is the advertising/marketing of gambling activity allowed in your country?

Yes.

As a general rule, advertising, promoting and announcing the sponsorship of cylinder games, card games, dice games, slot machine games and mutual betting are prohibited. However, advertising, etc. of licensed mutual betting is allowed on the conditions specified in the Gambling Act. There are also no specific prohibitions concerning “minor” forms of gambling, such as promotional lotteries.

7.2 Are there any advertising methods which cannot be used by gambling companies?

Yes.

The Gambling Act is both vague and strict as to the means of prohibited advertising, and also depends on the type of game.

7.3 Can gambling companies be sponsors of sports events?

Yes.

This applies to businesses conducting mutual betting or this activity together with other activities that are not subject to advertising, promotion or sponsorship restrictions.

It is permitted to present information containing the name and other designation identifying the sponsor.

7.4 Is it allowed to involve celebrities to advertise gambling activities?

Yes.

There is no explicit prohibition; however, numerous conditions need to be taken into account, e.g. permitted advertisements of mutual betting cannot evoke associations with sexual attractiveness, relaxation or rest, study or work and professional, life or financial success, and cannot be addressed to or involve minors.

7.5 Are there any CSR requirements for gambling companies?

Yes.

For example, income from a raffle lottery and raffle bingo is fully allocated to the implementation of socially useful purposes, in particular charitable purposes, as specified in the permit and the rules of the game.

7.6 Are there any other restrictions/limitations on advertising gambling activities?

Yes.

Gambling advertising is subject to numerous limitations and regulations, subject to the type of game.

8. Tax

8.1 Is there any specific tax regime for gambling companies?

Yes.

The Gambling Act provides for a gambling tax. The tax rate depends on the type of game: betting on sports competitions involving animals is 2.5%; raffle lottery and raffle bingo game is 10%; other betting is 12%; a cash lottery is 15%; a numerical game is 20%; a cash bingo game, telebingo, audio-text lottery and poker tournament game are 25%; a slot machine game, wheel game, dice and card game are 50%.

8.2 Is there a tax implication for transferring cash out of the country?

Yes.

Withholding income tax may apply to income earned in Poland resulting from a share in the profits of legal entities located in Poland, royalties or interest payments, licence fees and remuneration for intangible services.

8.3 Is there a tax implication for transferring cash into the country?

Yes.

The Tax on Civil Law Transactions may apply if the transferring of cash involves conducting, among others, a sales agreement, loan agreement, taxable distribution, establishing a company, etc.

8.4 Is there a tax implication for offering trading activities remotely in the country?

Yes.

Offering trading/gambling games remotely into Poland may be subject to gambling tax.

8.5 Are there any other observations regarding the taxation of gambling activities (locally and remotely)?

Yes.

Organising or arranging gambling games in violation of the rules may be subject to the Penal Fiscal Code.

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